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Contragate

Reagan Dupes the Congress

Hanover, New Hampshire.

WE'RE NOT violating any laws," President Reagan said when he acknowledged that Lieutenant Colonel Oliver North of the National Security Council had been aiding the *Contra* exile army that is trying to overthrow the Nicaraguan government.

Representative Michael Barnes has another view, which he expressed when, as chairman of the

By Kenneth E. Sharpe

House Western Hemisphere subcommittee, he requested all records on Colonel North's involvement: "It would be stretching the integrity of the law," the Maryland Democrat explained, "to suggest" that Colonel North's activities did not violate the letter or the spirit of the law.

Mr. Barnes has a case. Despite the October, 1984, congressional ban on aid to the *Contras*, Colonel North helped reorganize and coordinate operations of the two main rebel groups, he gave tactical advice to the *Contras* and helped them raise over \$20 million in private funds.

But this is only a skirmish in a presidential offensive against Congress's budget and war-making powers. While public attention focuses on the conflict in Central America, the constitutional struggle goes largely unnoticed.

In 1981 Mr. Reagan could not have won congressional approval for a proxy army to wage war on Nicaragua. However, if other ways could be found to create an exile army and cloak it with legitimacy, administration officials hoped they might avoid, or, even better, quell opposition from some of the Democrats (and moderate Republicans) who opposed the notion of overthrowing foreign governments or feared that U.S. proxies would drag in U.S. troops. Circumventing the constitutional authority of Congress was an essential element of this White House strategy.

First the administration used secrecy. It went to the closed chambers of the Senate and House Select Committees on Intelligence and gained approval for a small, "covert" exile force to intercept arms the president claimed Nicaragua was sending to Salvadoran insurgents.

But as the CIA used the aid to create an exile force of thousands whose leaders (National Guardsmen of the former Somoza dictatorship) declared their intent to overthrow the Sandinistas, the House Democratic leadership grew leery. In December, 1982, it gained passage of the Boland Amendment prohibiting the use of funds "for the purpose of overthrowing the government of Nicaragua." But the administration continued building the *Contra* army, arguing it was not violating the law because its purpose in giving the aid was arms interception even if the *Contras'* purpose was overthrow. Speaker of the House Thomas P. O'Neill commented: "The president of the United States broke the law and then laughed to the American people that he broke the law."

While the House struggled to get Senate agreement for stronger measures, the administration developed mechanisms to get more money for the *Contras* than a reluctant Congress was willing to allow. Congressional spending limits were circumvented by charging certain expenses (such as the mining of Nicaragua's harbors) to other accounts; an airfield for the *Contras* was built in Aguacate, Honduras, illegally using funds from Defense Department exercises; the Defense Department donated aircraft to carry supplies to *Contra* bases, and transferred ships, planes and guns to the CIA with little or no charge.

The administration also violated the reporting requirements of the 1980 Intelligence Oversight Act when it failed to inform the Intelligence Committees of the mining. The CIA manual for Nicaraguan *Contras*, with its instructions on the selective use of assassination, violated the president's own Executive Order 12333 prohibiting the involvement of any U.S. agency in assassinations.

In October, 1984, angered by the mining and the manual, the House persuaded the Senate to cut off all funds to the *Contras* from any agency "involved in intelligence activities."

But again the White House circumvented congressional intent by encouraging private funding of the *Contras* and giving them organizational and moral support — the tasks of Colonel North. Further, such actions violated the Neutrality

Act which prohibits private support or participation in military expeditions against foreign governments that are at peace with the United States.

The administration may defend its actions with legal technicalities. But Admiral Stansfield Turner, CIA director under President Carter, put the case clearly: "It may not break the law, but it's ridiculous when the CIA had to be kept at arm's length from the *Contras* to have another arm of the government doing exactly the same thing . . . it's most improper."

Each time congressional committees discovered the administration was circumventing or breaking the law, some members stood up and protested. Sometimes there was a hearing, a rebuke, a slap on the hand. The White House often agreed to refrain from doing a particular misdeed again. But there was no reason not to try something else: No

official was ever prosecuted or forced to resign; no action was undone. After each skirmish the White House retreated, but each move bought time and helped build the *Contra* army.

In June, 1985, years of often flagrant disregard for congressional authority finally paid off. The administration was able to make an offer that dozens of Democrats (mostly Southern) could not refuse. With the *Contra* army in place, unfolding events (such as Nicaraguan President Daniel Ortega's visit to Moscow to get aid) allowed the president to convince these congressmen to desert the House leadership and approve \$27 million of "non-military" aid to the *Contras*.

Mr. Barnes is right to call for more information. He should also call for hearings: The White House and the public must be continually reminded that not even a president can flout the law. Even better would be hearings that exposed the whole pattern of circumvention that the president has used to dupe Congress.

Our constitutional democracy is weakened if we allow the re-creation of the pre-Watergate imperial presidency: a chief executive who routinely circumvents the authority of Congress and the courts, who views himself above the law, and who uses secrecy and distortion to deceive Congress and the public to accomplish his policy objectives.

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